

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

CRUM & FORSTER SPECIALTY )  
INSURANCE COMPANY, )  
                               )  
Plaintiff,                 )  
                               ) Case No. 05-1038-CV-W-FJG  
vs.                         )  
                               )  
DEMTECH, INC. et al.,     )  
                               )  
Defendants.                 )

**ORDER**

Pending before the Court are (1) defendant Midwest Foundation Corporation's Motion to Dismiss or, in the alternative, Motion for Judgment on the Pleadings (Doc. No. 8); and (2) plaintiff's Motion for Leave to File its First Amended Complaint for Declaratory Judgment (Doc. No. 15). Plaintiff's motion for leave to file its first amended complaint was filed in response to the motion to dismiss. Notably, plaintiff has not yet served separate defendant Demtech, Inc., and neither defendant has filed a responsive pleading in this matter. Therefore, plaintiff is allowed to amend its complaint as of right pursuant to Rule 15(a) of the Federal Rules of Civil Procedure.

Therefore, for good cause shown, Plaintiff's Motion for Leave to Amend (Doc. No. 15) is **GRANTED**. Plaintiff is **ORDERED** to file its First Amended Complaint on or before **January 13, 2006**. As plaintiff's motion for leave to amend is granted, defendant Midwest

Foundation Corporation's motion to dismiss (Doc. No. 8) is **DENIED AS MOOT**.

**IT IS SO ORDERED.**

/s/ FERNANDO J. GAITAN, JR.

Fernando J. Gaitan, Jr.

United States District Judge

Dated: January 9, 2006  
Kansas City, Missouri